

STATE OF MICHIGAN
COURT OF APPEALS

MARIO BADIA,

Plaintiff-Appellant,

v

DLI PROPERTIES, L.L.C.,

Defendant-Appellee,

and

RYAN CHILDRESS, FORD FIELD, and ROAR &
MORE,

Defendants.

UNPUBLISHED

April 20, 2006

No. 259660

Wayne Circuit Court

LC No. 03-318700-NI

Before: Murphy, P.J., and O'Connell and Murray, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order dismissing his claims against defendant DLI Properties, L.L.C. (DLI). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed suit naming Ford Field, The Roar & More, a souvenir store located in Ford Field, and Ryan Childress, an employee of The Roar & More, as defendants, and alleging that he sustained physical and psychological injuries when he was ejected from The Roar & More for no legitimate reason. Subsequently, the parties stipulated to the dismissal of Ford Field and The Roar & More, and to the addition of DLI as a defendant.

DLI and Childress filed separate motions for security for costs pursuant to MCR 2.109(A), seeking bonds in the amount of \$25,000 and \$15,000, respectively. The motions noted that plaintiff had rejected the awards recommended by the case evaluation panel,¹ and had

¹ The panel recommended awards in favor of plaintiff and against DLI and Childress in the amounts of \$2,000 and \$100, respectively.

refused to engage in meaningful settlement negotiations. In response to the motions, plaintiff submitted an affidavit in which he stated that he was not financially able to post security for costs.

The trial court entered an order requiring plaintiff to post separate bonds as security for costs in the amount of \$7,500 each. The order provided that if plaintiff did not post the bonds on or before October 29, 2004, the matter would be dismissed with prejudice.

Plaintiff did not post either bond prior to October 29, 2004. DLI moved to dismiss plaintiff's claims against it. Subsequently, plaintiff posted a bond in favor of DLI in the amount of \$7,500. The trial court granted the motion and dismissed plaintiff's claims against DLI with prejudice. Thereafter, the parties stipulated to the dismissal of plaintiff's claims against Childress.

On the motion of a party against whom a claim has been asserted in a civil action, the trial court may order the opposing party to file a bond in an amount sufficient to cover all costs and other recoverable expenses which may be awarded by the trial court or, if the claiming party appeals, by the trial and appellate court. The trial court must determine the amount of the bond in its discretion. MCR 2.109(A). The trial court's decision to require a bond is reviewed for an abuse of discretion. *In re Surety Bond for Costs*, 226 Mich App 321, 331; 573 NW2d 300 (1997). If a party does not file a bond as ordered, the trial court may dismiss the party's claims. *Id.* at 332.

Plaintiff argues that the trial court abused its discretion by dismissing his claims against DLI. The trial court's order requiring plaintiff to post the bonds clearly stated that if plaintiff did not comply on or before October 29, 2004, the matter would be dismissed with prejudice. Plaintiff did not post the bonds as required. In response to DLI's motion to dismiss, plaintiff claimed that his financial status made it virtually impossible for him to comply with the order. However, plaintiff made no effort to secure an extension of time in which to file the bonds, or to seek a modification of the order pursuant to MCR 2.109(C). He simply failed to comply with the order. Under the circumstances, the trial court did not abuse its discretion by dismissing plaintiff's claims against DLI. See *Wells v Fruehauf Corp*, 170 Mich App 326, 337-339; 428 NW2d 1 (1988).

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Christopher M. Murray